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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/344,795	06/25/1999	NICHOLAS D. EVANS	NESO:009	9466

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EXAMINER

REAGAN, JAMES A

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/344,795

Applicant(s)

EVANS, NICHOLAS D.

Examiner

James A. Reagan

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-25 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-25 and 33-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

7.0

DETAILED ACTION

Status of Claims

1. This action is in response to the Petition for Revival granted on 14 March 2005, subsequent rescinded abandonment, and the remarks filed with the response on 05 December 2003.
2. Claims 5, 11, 14, 19, and 23-25 have been amended.
3. Claims 2-25 and 33-35 are currently pending and have been examined.
4. The rejection of claims 2-25 and 33-35 are unchanged.

RESPONSE TO ARGUMENTS

5. Applicant's arguments received on 05 December 2003 have been fully considered but they are not persuasive. Referring to the previous Office action, examiner has cited relevant portions of the references as a means to illustrate the systems as taught by the prior art. As a means of providing further clarification as to what is taught by the references used in the first Office action, Examiner has expanded the teachings for comprehensibility while maintaining the same grounds of rejection of the claims except where noted. This information is intended to assist in illuminating the teachings of the references while providing evidence that establishes further support for the rejections of the claims.

Applicant has presented an oath claiming to show conception, reduction to practice, and due diligence prior to the publication date of the Prince reference. In light of the drawings presented with the filing of the application on 25 June 1999, the Examiner is willing to concede that that Applicant has shown due diligence prior to the effective date of the Prince publication. See MPEP 2138.06. However, *at this time*, there appear to be gaps in the showing of conception

and reduction to practice, and because of this the Examiner is unwilling to accept the evidence of proper conception and reduction to practice prior to the publication of the Prince reference. Consequently, Applicant's request to have the Prince reference removed is denied, and all rejections used in conjunction with said reference remain intact and unchanged.

With regard to the limitations of independent claim 2, Applicant argues, "There is not any mechanism, nor is any such mechanism suggested or taught, from eBay that there is any 'notification' of specially applicable comments lodged by the consumer or, that any such notification is provided particularly to the applicable company if any is received." Examiner disagrees, and introduces reference U of the enclosed PTO form 892 (paper #7). Although reference U is not used in any rejection of the pending claims or their limitations, it is supplied merely to show the state-of-the-art of notification procedures. Reference U is a continuation of the current eBay web pages available on the World Wide Web, and as such, is marked enclosure "21". In it, Ebay shows the eBay ID card, which notifies the buyer or the seller of any new comments received in the last 7 days, as well as listing the comment in its entirety below. Notification of comments and feedback is an old and well-known practice in the customer service arts, as evidenced by eBay. Although this reference does not precede the filing date of the application, the references as cited in the conclusion section of this Office action provide a priority date preceding the application's filing date.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-11, 15-22, 24, 25, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over EBAY in view of Prince, "Online Auctions at eBay."

Examiner's note: Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the *entire* reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim 2:

EBAY discloses:

- Receiving a comment from the buyer about a product or service purchased from a seller on their auction site (enclosures 2 and 3).
- The comment is stored for future reference (enclosures 2 and 4).
- Users may access and review historical feedback through the network (enclosures 2 and 5).
- Notifications (enclosure 6 and enclosure 21).
- User (company) logs in and queries the database for comments left for the user (enclosures 7 and 4).
- Company responds to the comment left by the buyer (enclosure 4).
- The response is stored for future reference (enclosures 2 and 4).

- Users may access and review historical feedback through the network (enclosures 2 and 5).

Ebay does not specifically disclose a "notification" of specially applicable comments lodged by the consumer or, that any such notification is provided particularly to the applicable company if any is received. However, Prince, on page 425 does show the eBay ID card, wherein a buyer or seller is notified about new feedback left for them. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the notification method of eBay as shown by Prince because new feedback may contain valuable insight into the business-related conduct of a company, thereby providing a company with the means to improve customer service.

Claim 3:

EBAY discloses the feedback history about the company is displayed (enclosure 8).

Claim 4:

EBAY discloses:

- Notifications (enclosure 6).
- User (buyer) logs in and queries the database for comments or responses left for the user (enclosures 7 and 4).
- User reviews the comments and responses (enclosure 8).

Claim 5:

EBAY discloses comments and rating scheme (enclosure 2).

Claim 6:

EBAY discloses comments and rating scheme (enclosure 2).

Claim 7:

EBAY transacts business with a plurality of buyers and sellers worldwide, each participant being rated by the same rating system (enclosure 2).

Claim 8:

EBAY discloses:

- Assigning values to each comment (enclosure 2).
- Compiling the values (enclosure 2).
- Ranking the scores (enclosure 10).
- Providing access to the ratings over the network (enclosures 2 and 5).

Claim 9:

EBAY discloses:

- Sorting by complaint or praise (enclosure 11).
- Assigning numeric values (enclosure 11).
- Compiling comments and adding values (enclosure 11).
- Providing access to the comments (enclosure 11).

Claim 10:

EBAY discloses email notification (enclosure 6).

Claim 11:

EBAY discloses feedback data entry form (enclosure 12).

Claim 15:

Databases and servers are common, state-of-the-art components of a computer network system used for storing large amounts of data accessible through a network connection. EBAY shows accessing comments through a network connection and therefore inherently discloses storing historical comments on a database and central server coupled to a communication network (enclosure 11). In addition, EBAY discloses email notification (enclosure 6).

Claim 16:

EBAY discloses email notification with embedded hyperlinks (enclosure 13), sent to the buyer or seller (company or customer). The buyer or seller clicks on the hyperlink, is queried for their log in and password information (enclosure 14), and is sent to the EBAY site.

Claim 17:

EBAY discloses feedback data entry form (enclosure 12).

Claim 18:

EBAY discloses registering on EBAY (enclosure 15).

Claim 19:

EBAY discloses registration is required before a company may buy and sell products and services on EBAY, as well as send and receive comments and feedback. After the log in query, a company may fill out a registration data form to access EBAY products and services (enclosure 15).

Claim 20:

Databases and servers are common, state-of-the-art components of a computer network system used for storing large amounts of data accessible through a network connection. EBAY shows accessing comments through a network connection and therefore inherently discloses storing historical comments on a database and central server coupled to a communication network (enclosure 11). In addition, EBAY discloses email notification (enclosure 6).

Claim 21:

EBAY discloses email notification with embedded hyperlinks (enclosure 13), sent to the buyer or seller (company or customer). The buyer or seller clicks on the hyperlink, is queried for their log in and password information (enclosure 14), and is sent to the EBAY site.

Claim 22:

EBAY discloses email notification with embedded hyperlinks (enclosure 13), sent to the buyer or seller (company or customer). The buyer or seller clicks on the hyperlink, is queried for their log in and password information (enclosure 14), and is sent to the EBAY site.

Claim 24:

Databases and servers are common, state-of-the-art components of a computer network system used for storing large amounts of data accessible through a network connection. EBAY shows accessing comments through a network connection and therefore inherently discloses storing historical comments on a database and central server coupled to a communication network (enclosure 11). In addition, EBAY discloses email notification (enclosure 6).

Claim 25:

EBAY discloses communication is accomplished over the online over the Internet, as well as with other communication systems that operate separately or in conjunction with the Internet (enclosure 1).

Claims 33-35:

Inherently, computers, servers, and databases are comprised of processors, memory devices, communication devices, application programs and code written to control and utilize the various hardware components of a computer networking system. Databases and servers are common, state-of-the-art components of a computer network system used for storing large amounts of data accessible through a network connection. Furthermore, software code written specifically for the purpose of implementing the tasks outlined in the limitations recited in claims 33-35 have been inherently disclosed in the rejections of Claims 1-32 above.

8. Claims 12-14, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over eBay in view of Prince, further in view of Himmel et al. (US 6,037,9340).

Claims 12, 13, 14, and 23:

EBAY discloses the system of providing feedback communications in the rejection of claim 1 above. EBAY does not specifically disclose using HTML formats (dynamic and static), JAVA applets, ActiveX controls, or XML formats. Himmel, however, does disclose the use of HTML, JAVA, and ActiveX (column 15, lines 21-25), as well as XML (column 21, line 34) when accessing and viewing web pages. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize HTML formats (dynamic and static), JAVA applets, ActiveX controls, or XML formats when constructing the data forms because these formats are widely used throughout the Internet community and provide an efficient and uncomplicated

means for gathering, storing, accessing, and displaying data through a network communication system. Utilizing these common protocols and formats provides a universal and familiar landscape for promoting electronic feedback.

Conclusion

9. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **James A. Reagan** whose telephone number is **571.272.6710**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **James Trammell** can be reached at **571.272.6712**. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

703.305.7687 [Official communications, After Final communications labeled "Box AF"]

703.308.1396 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window:**

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JAR

03 May 2005

